

ADMINISTRATIVE PANEL DECISION

GrabTaxi Holdings Pte. Ltd. v. Bui Van Tho, Van Tho
Case No. D2023-1442

1. The Parties

The Complainant is GrabTaxi Holdings Pte. Ltd., Singapore, represented by BMVN International LLC, Viet Nam.

The Respondent is Bui Van Tho, Van Tho, Viet Nam.

2. The Domain Name and Registrar

The disputed domain name <dangkygraboto.com> is registered with GMO Internet, Inc. d/b/a Discount-Domain.com and Onamae.com (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on April 4, 2023. On April 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 5, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (GMO-Z.com RUNSYSTEM) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 10, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint in English on April 11, 2023.

On April 10, 2023, the Center transmitted an email communication to the Parties in English and Japanese regarding the language of the proceeding. On April 11, 2023, the Complainant submitted a request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent in English and Japanese of the Complaint, and the proceedings commenced on April 18, 2023. In accordance with the

Rules, paragraph 5, the due date for Response was May 8, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 9, 2023.

The Center appointed Masato Dogauchi as the sole panelist in this matter on May 22, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

Whereas the Respondent has not submitted any formal response, the following information from the Complaint is found to be the factual background of this case.

The Complainant is a company incorporated in Singapore in 2013, which is the intellectual property holding entity of the technology company group. The group offers software platforms and mobile applications for, among other services, ride-booking, ride-hailing, ride-sharing, food delivery, logistics services, courier services, online shopping, home cleaning, repair services and digital payment mainly in the southeast Asian countries including Singapore, Malaysia and Viet Nam. The name of the mobile application of the Complainant is "GRAB". On August 8, 2022, the Complainant announced that it has hit a milestone of 10 billion rides and deliveries.

The Complainant owns trademarks incorporating the term GRAB in many countries. In Viet Nam, the Complainant owns the following GRABTAXI, GRAB and GRABCAR trademarks (hereinafter cited as "the GRAB trademark"):

- International Registration No. 1213411 for GRABTAXI, designating multiple jurisdictions including Viet Nam, registered on May 20, 2014;
- Viet Nam Registration No. 40318225000 for GRAB, registered on April 16, 2019;
- Viet Nam Registration No. 40339168000 for GRABCAR, registered on December 9, 2019.

These trademarks have been continuously used in respect of the Complainant's goods and services in advertising and promotional materials, both online and offline. The Complainant also has a number of domain names that contain term GRAB as a prominent feature thereof, including <grab.com>, created on November 3, 1996.

The disputed domain name <dangkygraboto.com> was registered on October 27, 2020. The Respondent is running a business in Viet Nam to offer services using a website to which the disputed domain name resolves. The website offers services of supporting car drivers in Viet Nam to complete the required documents and conditions to register with the Complainant to become partner drivers of the Complainant. This website, without representing that the Respondent is an independent business entity and that there is no relationship between the Complainant and the Respondent, posts many contents providing information of the Complainant's subsidiary in Viet Nam and its business materials such as advertising photos and marketing images.

5. Parties' Contentions

A. Complainant

The Complainant's contentions are divided into three parts as follows:

First, the Complainant asserts that the disputed domain names are confusingly similar to its trade mark, since the disputed domain name incorporates the entirety of the Complainant's GRAB trademark. The term GRAB is a word that has a common meaning in the language of the relevant jurisdiction, but that meaning is unrelated to the Complainant's goods or services. The GRAB trademark, therefore, should be considered

distinctive in identifying and distinguishing products or services of the Complainant, since the terms “dangky” and “oto” are Vietnamese words for “register” / “registration” and “car” in English respectively. With regard to the term “.com,” such generic Top-Level Domain (“gTLD”) should be disregarded in assessing confusing similarity on the basis of well-established authority. Accordingly, these terms should not be considered sufficient to make the disputed domain name distinguishable from the Complainant’s GRAB trademark. Instead, the Respondent’s use of the disputed domain name would give rise to confusion because it points to a field of services in which the Complainant’s GRAB trademark is actually used.

Second, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name. According to prior UDRP decisions, it should be sufficient that the complainant shows *prima facie* that the respondent lacks rights or legitimate interests in the disputed domain name in order to shift the burden of production to the Respondent. The Complainant confirms that the Respondent is not contracted by or otherwise affiliated with the Complainant, and the Complainant has never licensed or authorized the Respondent to use the GRAB trademark in any manners. The Complainant also confirms that there is not any evidence nor record showing that the Respondent is commonly known by reference to the disputed domain name and that the Respondent has ever established a right or legitimate interest in the disputed domain name. In addition, the use of the disputed domain name in this case constitutes neither a *bona fide* offering service nor a legitimate noncommercial or fair use.

Third, the Complainant asserts that the disputed domain name has been registered and is being used in bad faith. The Respondent’s choice of the disputed domain name should not be considered a coincidence, because the term GRAB is unrelated to the Complainant’s transportation services using partner drivers for which the Respondent offers support to complete the required documents and conditions to register with the Complainant. In consideration of the popularity of the Complainant’s GRAB trademark in southeast Asian countries including Viet Nam, it should be inconceivable that the Respondent could have been unaware of the Complainant’s GRAB trademark at the time of registration of the disputed domain name registered on October 27, 2020. With regard to bad faith use, the service contents offered by the website to which the disputed domain name resolves should be considered to show a clear intent to obtain an unfair commercial gain. In addition, the fact that the website associated with the disputed domain name fails to represent that the Respondent is an independent business entity and that it posts many contents providing information of the Complainant’s subsidiary in Viet Nam and its business materials such as advertising photos and marketing images should be considered to present the Respondent’s bad faith use of the disputed domain name.

B. Respondent

The Respondent did not reply to the Complainant’ contentions.

6. Discussion and Findings

6.1. Preliminary Issue: Language of Proceedings

In respect of the language to be used in the administrative proceeding, in accordance with the Rules, paragraph 11(a), the language of the administrative proceeding shall be, in principle, the language of the registration agreement. However, the same provision allows the panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

In the present case, the Registrar has confirmed that the language of the Registration Agreement is Japanese.

The Panel determines that the language of this proceeding shall be English rather than Japanese on the following grounds:

- the Complainant's request to that effect;
- the Respondent did not reply to the Center's Language of Proceedings email or Notification of Complaint in English and Japanese;
- the disputed domain name is not in Japanese script; and
- the use of Japanese language would produce undue burden on the Complainants in consideration of the absence of a Response from the Respondent.

6.2. Substantive Matters

In accordance with the Rules, paragraph 15(a), a panel shall decide a case on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable. Since the Respondent has not made any substantive arguments in this case, the following decision is rendered on the basis of the Complainant's contentions and other evidence submitted by the Complainant.

In accordance with the Policy, paragraph 4(a), in order to qualify for a remedy, the Complainant must prove each of the following:

- (i) The disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainants have rights; and
- (ii) The Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) The disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has rights in the GRAB trademark.

The disputed domain name includes the term "grab", which is same as the Complainant's GRAB trademark. Such inclusion is, in principle, by itself enough to have the disputed domain name to be confusingly similar to the Complainant's GRAB trademark. While arguably, in this case, the term "grab" may not be easily perceived by, for example an Internet user, since the term "grab" is located between the terms "dangky" and "oto" without any hyphens, the Panel notes that it would be recognizable by technological means. See in section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). The element ".com" represents one of the generic Top-Level Domains, which is irrelevant in the determination of the confusing similarity. The Complainant's GRAB trademark is, accordingly, recognizable within the disputed domain name. See section 1.8 of [WIPO Overview 3.0](#).

Therefore, the Panel finds that the disputed domain name is confusingly similar to the trademark in which the Complainant has rights. The above requirement provided for in paragraph 4(a)(i) of the Policy is accordingly satisfied.

B. Rights or Legitimate Interests

There is no evidence that shows the Respondent is commonly known by the name "dangkygraboto". The Respondent is not affiliated with the Complainant or authorized or licensed to use the Complainant's GRAB trademark. Moreover, the Panel determines that the use of the disputed domain name shows that the Respondent does not have any legitimate interests in the disputed domain name, on the grounds that the Respondent offers services of supporting car drivers in Viet Nam to complete the required documents and conditions to register with the Complainant to become partner drivers of the Complainant, without mentioning that the Respondent does not have any relationship with the Complainant, and does post many contents providing information of the Complainant's subsidiary in Viet Nam and its business materials such as advertising photos and marketing images.

Since the Respondent did not reply to the Complainant's contentions in this proceeding, the Panel finds on the available record that the Complainant has established an un rebutted *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. See section 2.1 of the [WIPO Overview 3.0](#). The above requirement provided for in paragraph 4(a)(ii) of the Policy is accordingly satisfied.

C. Registered and Used in Bad Faith

In consideration of the size and popularity of the Complainant's business in southeast Asia countries including Viet Nam and of the service offered by the Respondent on the website associated with the disputed domain name, it is highly unlikely that the Respondent would not have known of the Complainant's right in the GRAB trademark at the time of registration of the disputed domain name. Therefore, it is found that the Respondent registered the disputed domain name in bad faith.

In addition, the Panel notes that people capable to read Vietnamese language who are the prospective users of the Respondent's website can clearly identify the trademark GRAB, and understand the terms "dangky" and "oto" as connected to the Complainant, as those are Vietnamese words for "register" / "registration" and "car" (when translated into English). The Panel finds that the Respondent's selection of such composition was the result of the Respondent targeting the Complainant's GRAB trademark.

With regard to the requirement that the Respondent is using the disputed domain name in bad faith, it should be noted that the disputed domain name resolves to the Respondent's website offering services of supporting car drivers in Viet Nam to complete the required documents and conditions to register with the Complainant to become partner drivers of the Complainant, without mentioning that the Respondent does not have any relationship with the Complainant, and does post many contents providing information of the Complainant's subsidiary in Viet Nam and its business materials such as advertising photos and marketing images. Such use of the disputed domain name to appropriate the fame and reputation of the Complainant for the Respondent's own profit shows that the Respondent's use of the disputed domain name is being done in bad faith.

Since the Respondent did not reply to the Complaint in this proceeding, the Panel finds that the disputed domain name has been registered in bad faith and is being used in bad faith. The above requirement provided for in paragraph 4(a)(iii) of the Policy is accordingly satisfied.

In conclusion, all three cumulative requirements as provided for in paragraph 4(a) of the Policy are determined to be satisfied.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <dangkygraboto.com> be transferred to the Complainant.

/Masato Dogauchi/
Masato Dogauchi
Sole Panelist
Date: June 5, 2023